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# In the Supreme Court of the United States

OCTOBER TERM, 1965

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STEPHEN S. CHANDLER, UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA, PETITIONER

*v.*

JUDICIAL COUNCIL OF THE TENTH CIRCUIT OF THE UNITED STATES, RESPONDENT

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*ON MOTION FOR LEAVE TO FILE PETITION FOR WRIT OF PROHIBITION AND/OR MANDAMUS, AND PETITION FOR WRIT OF PROHIBITION AND/OR MANDAMUS*

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## PETITIONER'S REPLY TO SUPPLEMENTAL MEMORANDUM FOR RESPONDENT

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*Of Counsel:*

GEORGE AND KENAN

March ——, 1966

# In the Supreme Court of the United States

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No. 1111, Miscellaneous

STEPHEN S. CHANDLER, UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA, PETITIONER

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## PETITIONER'S REPLY TO SUPPLEMENTAL MEMORANDUM FOR RESPONDENT

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This reply is made to the supplemental memorandum for respondent.

The Judicial Council continues to act without authority. It now purports to require Judge Chandler to certify to it his willingness and ability to undertake new business.

The Judicial Council forgets that Judge Chandler does not presently hear new cases because he and the other district judges of his Court, even though under duress, so agreed. (See Judge Chandler's letter to one of his fellow district judges, dated January 24, 1966, appearing as Appendix B to Respondent's Memorandum for Respondent).

True, the Judicial Council on February 4, 1966, purported to order that Judge Chandler could hear no new cases (e.g., cases filed in his Court after December 27, 1965). But this order was patently illegal. Title 28 U.S.C., Sec. 137 did not authorize such action, because there was no disagreement among the judges of Judge Chandler's Court over the assignment of *new* cases. Any disagreement, which might have invoked the powers of 28 U.S.C., Sec. 137, existed with respect to *old* cases. Yet the disagreement (artificial, at that) over the assignment of *old* cases was cited by the Judicial Council as authorizing it to take over the assignment of *new* cases in Judge Chandler's Court. The logic of this is absurd.

Nor did 28 U.S.C. § 332 authorize the Judicial Council's Order of February 4, 1966. Petitioner's Petition for Writ of Prohibition and/or Mandamus sets forth the extremely limited scope of Section 332, as revealed by its legislative history. (See Petition for Writ of Prohibition and/or Mandamus: material following "Argument" on page 14 and continuing through the second paragraph on page 16, as well as the comparison of the revised and the original statute appearing on page 9). This section does not authorize the raw disciplining of district judges by appellate

judges. Yet, the Order of February 4, 1966, is only an attempt to recast into more acceptable terms the Judicial Council's earlier disciplinary action over Judge Chandler. Unfortunately, all of the Judicial Council's orders in this proceeding have been totally contaminated with the Council's original disciplinary intent.

The original order of the Judicial Council was clearly unjustified as exceeding the limited powers granted by the Congress, as usurping Congress' impeachment powers, as denying Judge Chandler due process of law, and as inappropriately relying on Judge Chandler's personal court actions as justifying the discipline rendered.

The second order of the Judicial Council, which called for some kind of a strange hearing, was withdrawn for general lack of interest.

The third order, that of February 4, 1966, torments one's powers of logic and rationality, and is supported neither by 28 U.S.C. § 137 nor by 28 U.S.C. § 332.

The Judicial Council's Supplemental Memorandum for Respondent recently filed in this Court, can only be regarded as a fourth order of the Council. It purports to qualify Judge Chandler's powers by requiring him to certify to the Judicial Council "that he is willing and able to undertake new business."

Judge Chandler challenges the authority of the Judicial Council to do this. He will certify to the Council neither his willingness nor his unwillingness, neither his ability nor the lack thereof. He does not recognize the right of judicial councils to crack the whip

over and to impose such restrictions on district judges. He particularly does not recognize such under the tortuous history of this case.

The twists and turns of this case should not obscure the principal issue: Do Judicial Councils have authority to discipline district judges?

Nor should the disciplinary nature of the Judicial Council's orders be obscured by the Council's attempt to now characterize them as merely cleaning up a district court's docket.

The proceedings were born in a shocking attack on Judge Chandler's judicial powers, a naked disciplinary action Once Judge Chandler challenged the very disciplinary authority of judicial councils, these proceedings have been marked by crude maneuvers of the Judicial Council to accomplish two objectives: One, to change the image of these proceedings from a disciplinary action to a purely docket-clearing administrative action; and two, to nevertheless subject Judge Chandler to as much discipline as possible. Surely, this Court will not be misled.

The way to expedite business in Judge Chandler's Court is to rid Judge Chandler of the time-consuming and nerve-racking burden of defending his jurisdiction against attacks by appellate judges who would arrogate unto themselves disciplinary powers over their judicial brethren. Judge Chandler continues to urge this Court to accept jurisdiction of this case and to hear it through. The business of his court suffers because of this proceeding. A question of immense public importance hangs—the question of appellate judges disciplining district judges. And, not to be

overlooked, a man, Judge Chandler, has been robbed of part of the worth of his life.

Respectfully submitted,

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